UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,060	12/22/2005	Atsushi Umekage	1248-0844PUS1	9644

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EXAMINER
MAMO, ELIAS

ART UNIT	PAPER NUMBER
2184	

NOTIFICATION DATE	DELIVERY MODE
09/12/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

PTOL-90A (Rev. 04/07)

		Application No.	Applicant(s)
Office Action Summary		10/562,060	UMEKAGE ET AL.
		Examiner	Art Unit	
		Elias Mamo	2184	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION..

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 December 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-10</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-10</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) <u>11-30</u> are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>22 December 2005</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☒ All   b)☐ Some * c)☐ None of:

   1.☒ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date <u>12/22/2005</u>.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   Office Action Summary   Part of Paper No./Mail Date 20070826

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of claims 1-10 in the reply filed on 07/03/2007 is acknowledged. The traversal is on the ground that **"the Groups as indicated by the Examiner would not constitute a serious burden to the Examiner during examination."**

This is not found persuasive because, since the inventions in group I and group II are directed to separate classes, they would require different search. Further, the inventions are directed to two separate and distinct inventions. For instance invention I is directed to peripheral monitoring/status updating and invention II is directed to computer-to-computer data routing. Therefore, having shown that the inventions are independent and distinct from each other, the applicant is requested to cancel claims 11-30 since they are directed to non-elected invention.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture,
> or composition of matter, or any new and useful improvement thereof, may obtain
> a patent therefor, subject to the conditions and requirements of this title.

The claimed invention is directed to non-statutory subject matter. **Claim 7** recites "an information processing program", which is interpreted as a computer program, however, the claim fails to assert the program recorded on an appropriate computer-readable medium so as to be structurally and functionally interrelated to the medium and permit the function of the descriptive material to be realized. Since a computer program is merely a set of instructions capable of being executed by a computer without a computer-readable medium needed to realize the computer program's functionality, it is regarded as nonstatutory functional descriptive material. See MPEP 2106.01 for details.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "information processing <u>section</u> as set forth in claim 1" which is confusing. For the purpose of examining the current application it is construed as "information processing <u>device</u> as set forth in claim 1". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Gassho et al. (US 7,180,626), herein after referred as to Gassho et al. '626.

Referring to **claim 1,** Gassho et al. '626 teach, as claimed, an information processing device, comprising:

    -a storage section (buffer 55, see fig. 3);

    -a reception section capable of receiving data transmitted to a specific address that has been predetermined (i.e.-job receiver unit 101, see fig. 3) ;

    -a registration processing section for adding and registering the data received by the reception section into the storage section (i.e.-job status monitor unit 104, see fig. 3);

    -a data processing section for processing the data stored in the storage section (i.e.-job management unit 103, see fig. 3); and

    -a status change processing section for controlling the registration processing section and the data processing section (i.e.-printer status monitor unit 105, see fig. 3); and for switching between (i) an active status which allows additional registration of the data transmitted to the specific address and processing of the data (Note: Gassho et al. '626 inherently teach an active status of a printer if the printer is not in error or in congested status, col. 2, lines 13-23); and (ii) a non-active status other than the active status, wherein the status change processing section instructs one or more other information processing devices to change into the active status when an amount of unprocessed data registered in the storage section exceeds a predetermined threshold value (Note: when a printer is congested, then jobs stored in the buffer are transferred to another printing apparatus, col. 2, lines 27-29) and the status change processing section changes the information processing device into the non-active status and causes the data processing section to process the unprocessed data (col. 13, line 60-col. 14, line 15).

(Note: The claim languages "capable of", "for adding...", "for processing..." and "for controlling..." are considered intended use and do not limit the claimed device to a particular structure. Thus, it does not provide patentable weight. See MPEP § 2111.04).

As to **claim 2,** Gassho et al. '626 teach the information processing device as set forth in claim 1, comprising: a status information storage section (i.e.-printer status monitor unit 105, see fig. 3) for storing status information about one or more statuses of said other information processing devices, wherein the status change processing section determines, out of said other information

processing devices, an information processing device which is to be changed from the non-active status into the active status, based on the status information (Note: Gassho et al. teach a status change processing section which is the management unit, col. 5, lines 54-57)

As to **claim 3,** Gassho et al. '626 inherently teach the information processing section as set forth in claim 1, comprising: a calculation processing section for (i.e.-print controller circuit 53, see fig. 3) calculating, based on the unprocessed data stored in the storage section, a throughput of the unprocessed data; and a comparison processing section for comparing the throughput with a predetermined threshold value, wherein the status change processing section determines whether or not to change the information processing device into the non-active status, based on a result of comparison performed by the comparison processing section (col. 13, line 60-col. 14, line 15).

As to **claim 4,** Gassho et al. '626 teach the information processing device as set forth in claim 1, wherein the non-active status includes a standby status in which the information processing device changes into the active status based on an instruction to change into the active status (Note: congestion status changes to normal working status when the congested printing data is alleviated), said instruction being transmitted from said other information device; and the status change processing section controls the registration processing section so that the registration processing section additionally register the data transmitted to the specific address when it is determined that the information processing device is in the standby status (Note: Gassho et al. '626 inherently teach receiving of print data if the printer is not in congested status, col. 14, lines), and the status change processing section processes the data having been additionally registered when it is determined that said other information processing device in the active status is not capable of processing the data (see fig. 6).

As to **claim 5,** Gassho et al. '626 inherently teach the information processing device as set forth in claim 1, wherein the non-active status includes: (i) an off status which does not allow additional registration of data transmitted to the specific address and processing of the data (Note: it is inherent that if printer is off to be considered as non-active) (ii) a busy status (i.e.-not available status, col. 18, lines 31-33) which allows the data processing section to process

unprocessed data, and the status change processing section changes the status of the information

processing device into the off status and controls the data processing section so that the data

processing section does not operate when the status change processing section determines that

processing of the unprocessed data is completed after changing into the busy status (Note: when

a printer is in congested/unavailable/busy status, print jobs are routed to available printing

apparatus until the busy printer finishes the job or the alleviates the queue, col. 2, lines 13-43).

As to **claim 6,** Gassho et al. '626 teach the information processing device as set forth in claim 1,

wherein: when the registration processing section determines that received data has been

transmitted to the specific address, the registration processing section informs, to a device from

which the data has been transmitted, (i) reception of the data and (ii) a particular address of the

information processing device (col. 5, lines 18-24).

As to **claim 7,** Gassho et al. '626 teach an information processing program for operating the

information processing device as set forth in claim 1, said information processing program

causing a computer to function as each of the processing sections (col. 7, lines 39-41).

As to **claim 8,** Gassho et al. '626 teach a computer-readable storage medium, storing the

information processing program as set forth in claim 7 (col. 7, lines 39-41).

As to **claim 9,** Gassho et al. '626 teach an image forming apparatus, comprising: the image

processing device as set forth in claim 1; and an image forming section for forming an image

based on data processed by the information processing device (i.e.-printer 51 and printer control

circuit 53, see fig. 3).

As to **claim 10,** Gassho et al. '626 teach the image forming apparatus as set forth in claim 9,

wherein the non-active status includes a standby status prior to an active status, and when the

image forming apparatus is in the standby status, the status change processing section controls

the image forming section so that the image forming section is in operating condition (Note:

printer circuit unit controls the operating condition of the image forming apparatus).
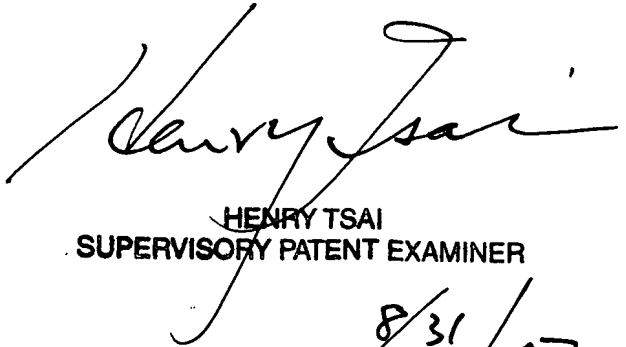
Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elias Mamo whose telephone number is (571) 270-1726 and fax number (571) 270-2726. The examiner can normally be reached on Monday to Thursday from 9 AM to 5 PM EST. The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Henry Tsai, can be reached on (571) 272-4176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EM

HENRY TSAI
SUPERVISORY PATENT EXAMINER

8/31/07